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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,430	03/29/2002	Aart Zeger van Halteren	47161-00031USPX	3407

30223 7590 01/31/2006

JENKENS & GILCHRIST, P.C.  
225 WEST WASHINGTON  
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CHICAGO, IL 60606

EXAMINER
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LE, HUYEN D

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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01032006

DATE MAILED:

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**Commissioner for Patents**

The IDS filed 11/30/2001 has been reviewed and considered. See attached IDS filed 11/30/2001.

  
**HUYEN LE**  
**PRIMARY EXAMINER**

<b>Communication Re: Appeal</b>	Application No.	Applicant(s)	
	09/980,430	VAN HALTEREN ET AL.	
	Examiner	Art Unit	
	HUYEN D. LE	2646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☒ The appeal brief filed on 12/06/04 is NOT acceptable for the reason(s) indicated below:

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$\_\_\_\_\_.


(d) **NOTE: SEE CONTINUATION SHEET.**  
The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☐ other: \_\_\_\_\_.

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration.

  
HUYEN LE  
PRIMARY EXAMINER

Art Unit: 2646

Continuation Sheet (PTOL-461)

Continuation of 2. (d) NOTE:

A review of the application indicates that the following sections are missing from the Appeal Brief of December 6, 2004:

1. "Summary of claimed subject matter" as set forth in 37 CFR 41.37 (c) (1) (v);
2. "Evidence appendix", as set forth in 37 CFR 41.37(c) (1) (ix); and
3. "Related proceedings appendix", as set forth in 37 CFR 41.37 (c) (1) (x).

Accordingly, the Appeal Brief filed on December 6, 2004 does not comply with the new rules under 37 CFR 41.37(c). It is required that a substitute brief be submitted that is in compliance with 37 CFR 41.37(c). For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at:

<http://www.uspto.gov/web/offices/dcom/boai/fr2004/moreinfo.html>.

The Applicants is required to file a substitute Appeal Brief in compliance with 37 CFR 41.37.

The Applicants are given ONE MONTH from the mailing date of this communication for filing a new appeal brief to correct the deficiencies in a defective appeal brief.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL

January 4, 2006



HUYEN LE  
PRIMARY EXAMINER